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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 JOSE YONI ALDANA
11 HERNANDEZ,

12 Plaintiff,
13 v.

14 C.R. LAURENCE, CO., INC. *et al.*,
15 Defendants.
16

Case No.: CV 24-3904-CBM-(MARx)

**ORDER RE: PLAINTIFF’S
MOTION TO REMAND [11] [JS-6]**

17 The matter before the Court is Plaintiff’s Motion to Remand. (Dkt. No. 11
18 (the “Motion”).)

19 **I. BACKGROUND**

20 On November 27, 2023, Plaintiff Jose Yoni Aldama Hernandez filed a
21 complaint against Defendants in state court (*Hernandez v. C.R. Laurence Co., Inc.*
22 *et al.*, Los Angeles Superior Court Case No. 23STCV28933), asserting the
23 following eleven causes of action: (1) discrimination, including discriminatory
24 discharge, based on actual or perceived disabilities in violation of the California
25 Fair Employment and Housing Act (“FEHA”); (2) failure to engage under FEHA;
26 (3) failure to accommodate under FEHA; (4) discrimination, including
27 discriminatory discharge, based on national origin and immigration status under
28 FEHA; (5) discrimination, including discriminatory discharge, based on religious

1 creed under FEHA; (6) discrimination, including discriminatory discharge, based
2 on age under FEHA; (7) retaliation, including retaliatory discharge based on actual
3 or perceived participation in protected activities under FEHA; (8) harassment
4 and/or hostile work environment under FEHA; (9) failure to prevent
5 discrimination, harassment and retaliation under FEHA and 2 C.C.R. § 11023;
6 (10) aiding, abetting, and/or inciting violations of FEHA; and (11) retaliatory
7 unfair immigration-related practices under Cal. Lab. Code § 1019. (Dkt. No. 1-1.)
8 On May 9, 2024, Defendant Henry Monroy timely removed the action based on
9 federal question jurisdiction. (Dkt. No. 1.) On June 7, 2024, Plaintiff timely filed
10 the instant Motion to Remand pursuant to 28 U.S.C. § 1447(c). (Dkt. No. 11.)

11 II. STATEMENT OF THE LAW

12 “Only state-court actions that originally could have been filed in federal
13 court may be removed to federal court by the defendant.” *Caterpillar Inc. v.*
14 *Williams*, 482 U.S. 386, 392 (1987). Pursuant to 28 U.S.C. § 1331, district courts
15 have original jurisdiction over “all civil actions arising under the Constitution,
16 laws, or treaties of the United States.” 28 U.S.C. § 1331. “The general rule,
17 referred to as the ‘well-pleaded complaint rule,’ is that a civil action arises under
18 federal law for purposes of § 1331 when a federal question appears on the face of
19 the complaint.” *City of Oakland v. BP PLC*, 969 F.3d 895, 903 (9th Cir. 2020)
20 (citing *Caterpillar*, 482 U.S. at 392). However, complete preemption is “an
21 exception to the well-pleaded complaint rule.” *Saldana v. Glenhaven Healthcare*
22 *LLC*, 27 F.4th 679, 686 (9th Cir. 2020) (citing *City of Oakland*, 969 F.3d at 905).
23 Moreover, an exception to the well-pleaded complaint rule exists for a small
24 category of state law claims which “necessarily raise a stated federal issue,
25 actually disputed and substantial, which a federal forum may entertain without
26 disturbing any congressionally approved balance of federal and state judicial
27 responsibilities” (hereinafter, the “*Grable* doctrine”). *Grable & Sons Metal Prod.,*
28 *Inc. v. Darue Eng’g & Mfg.*, 545 U.S. 308, 314 (2005); *see also City of Oakland*,

1 969 F.3d at 904. There is a “strong presumption against removal jurisdiction,”
2 and “the court resolves all ambiguity in favor of remand to state court.” *Hunter v.*
3 *Philip Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009) (citation omitted); *see*
4 *also Provincial Gov’t of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1087
5 (9th Cir. 2009); *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). The
6 defendant bears the burden of establishing that removal is proper. *Hunter*, 582
7 F.3d at 1042. “If at any time before final judgment it appears that the district court
8 lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. §
9 1447(c).

10 III. DISCUSSION

11 A. Removal

12 Plaintiff’s eleven causes of action are employment related claims brought
13 under California state law. However, Defendant Monroy removed this action
14 based on references in the Complaint to 8 U.S.C. § 1324a(b) with respect to
15 Plaintiff’s eleventh cause of action for retaliatory unfair immigration-related
16 practices under California Labor Code § 1019 on the grounds the Complaint raises
17 “at least” the following two federal questions: (1) whether the alleged conduct
18 “coincides” with “unfair immigration-related practices” as defined by 8 U.S.C. §
19 1324a(b) and pled by Plaintiff; and (2) whether the alleged reverification and
20 reinvestigation of employee work authorization was unlawful under 8 U.S.C. §
21 1324a(b).

22 8 U.S.C. § 1324a(b) provides “a person or other entity hiring, recruiting, or
23 referring an individual for employment in the United States . . . must attest, under
24 penalty of perjury and on a form designated or established by the Attorney
25 General by regulation, that it has verified that the individual is not an unauthorized
26 alien by examining” (1) an individual’s United States passport, resident alien card,
27 alien registration card, or other document designated by the Attorney General
28 containing a photograph of the individual and other “personal identifying

1 information relating to the individual”; or (2) an individual’s (a) social security
2 account number card or “other documentation evidencing authorization of
3 employment in the United States” and (b) a driver’s license or similar document
4 issued for the purpose of identification by a State containing a photograph of the
5 individual or other personal identifying information relating to the individual, or
6 “documentation of personal identity” in the case of individuals under 16 years of
7 age.

8 Under California Labor Code § 1019, “[i]t is unlawful for an employer or
9 any other person or entity to engage in, or to direct another person or entity to
10 engage in, unfair immigration-related practices against any person for the purpose
11 of, or with the intent of, retaliating against any person for exercising any right
12 protected under this code or by any local ordinance applicable to employees.”
13 Cal. Lab. Code § 1019. “Unfair immigration-related practices” for purposes of
14 California Labor Code § 1019 is defined as: “(A) Requesting more or different
15 documents than are required under Section 1324a(b) of Title 8 of the United States
16 Code, or a refusal to honor documents tendered pursuant to that section that on
17 their face reasonably appear to be genuine”; “(B) Using the federal E-Verify
18 system to check the employment authorization status of a person at a time or in a
19 manner not required under Section 1324a(b) of Title 8 of the United States Code,
20 or not authorized under any memorandum of understanding governing the use of
21 the federal E-Verify system”; or “(C) Threatening to file or the filing of a false
22 police report, or a false report or complaint with any state or federal agency.” Cal.
23 Lab. Code § 1019(b)(1). Moreover, under California Labor Code § 1019.1, “[i]t is
24 unlawful for an employer, in the course of satisfying the requirements of Section
25 1324a(b) of Title 8 of the United States Code, to . . . (1) Request more or different
26 documents than are required under Section 1324a(b) of Title 8 of the United States
27 Code”; “(2) Refuse to honor documents tendered that on their face reasonably
28 appear to be genuine”; “(3) Refuse to honor documents or work authorization

1 based upon the specific status or term of status that accompanies the authorization
2 to work”; or “(4) Attempt to reinvestigate or reverify an incumbent employee’s
3 authorization to work using an unfair immigration-related practice.” Cal. Lab.
4 Code § 1019.1.

5 Plaintiff’s California Labor Code § 1019 claim is based on Defendants’
6 alleged unfair immigration practices of requesting Plaintiff to reverify and
7 reinvestigate his work authorization “at a time or in a manner not require by 8
8 U.S.C. § 1324a(b)” and disregarding Plaintiff’s verification documents that had
9 already been accepted and were on file, in retaliation for Plaintiff’s alleged
10 protected activity. (Compl. ¶ 135.) The issue of requesting more or different
11 documents than required under 8 U.S.C. § 1324a(b) or checking an individual’s
12 employment authorization status at a time not required under 8 U.S.C. § 1324(a)
13 in retaliation for an employee engaging in activity protected under California law
14 does not “raise[] substantial questions as to the interpretation or validity of a
15 federal statute” nor “challenge[] the functioning of a federal agency or program,”
16 and is “fact-bound and situation-specific.” *See City of Oakland*, 969 F.3d at 904;
17 *see also Grable*, 545 U.S. at 314. Therefore, Plaintiff’s Complaint does not
18 necessarily raise a substantial federal issue demonstrating Plaintiff’s state claims
19 arise under federal law for purposes of 28 U.S.C. § 1331. *See City of Oakland*,
20 969 F.3d at 904; *Gaus*, 980 F.2d at 566; *Hunter*, 582 F.3d at 1042.

21 To the extent Defendant Monroy contends removal was proper based on
22 preemption, 8 U.S.C. § 1324a is not a complete preemption statute because the
23 scope of 8 U.S.C. § 1324a is not so broad as to entirely preempt any state law
24 claim. Nor does 8 U.S.C. § 1324a preempted Plaintiff’s California Labor Code §
25 1019 claim because it does not provide a substitute cause of action for a retaliation
26 claim by an individual under California Labor Code § 1019. Therefore, complete
27 preemption under 8 U.S.C. § 1324a cannot be a basis for federal subject matter
28 jurisdiction over Plaintiff’s state law claims. *See Saldana*, 27 F.4th at 686; *Salas*

1 *v. Sierra Chem. Co.*, 59 Cal. 4th 407, 421, 416–17 (2014).

2 Accordingly, Defendant Monroy’s removal of this action based on 8 U.S.C.
3 § 1324a was improper. *See Easton v. Crossland Mortg. Corp.*, 114 F.3d 979, 982
4 (9th Cir. 1997) (“[T]he mere reference of a federal statute in a pleading will not
5 convert a state law claim into a federal cause of action if the federal statute is not a
6 necessary element of the state law claim and no preemption exists.”).

7 **B. Fees and Costs**

8 Plaintiff requests an award for fees and costs incurred as a result of the
9 removal pursuant to 28 U.S.C. § 1447(c). However, California Labor Code §
10 1019 makes specific reference to a federal statute (8 U.S.C. § 1324a), and the
11 parties do not cite any decisions regarding remand of a case asserting a claim
12 under California Labor Code § 1019 based on lack of federal question jurisdiction.
13 The Court thus finds an award of fees and costs is not warranted under 28 U.S.C.
14 § 1447(c). *See Martin v. Franklin Cap. Corp.*, 546 U.S. 132, 141 (2005); *see also*
15 *Patel v. Del Taco, Inc.*, 446 F.3d 996, 999 (9th Cir. 2006).

16 **IV. CONCLUSION**

17 Accordingly, the Court **GRANTS** Plaintiff’s Motion to Remand and
18 remands this action to state court. The Court **DENIES** Plaintiff’s request for fees
19 and costs incurred as result of the removal.

20 **IT IS SO ORDERED.**

21
22 DATED: July 5, 2024.


23 HON. CONSUELO B. MARSHALL
24 UNITED STATES DISTRICT JUDGE
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